

EXHIBIT 156

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 Illinois Department of Public Aid
 Inter-Office Memorandum

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 TO: Ann Patla
 Director

DATE: May 30, 2000

 FROM: Matt Powers, Administrator *mp/lv*
 Division of Medical Programs

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JUN 06 2000

RE: Briefing-Average Wholesale Prices (AWP) Pricing Change

BCHS

ISSUE: The U.S. Justice Department and State Medicaid Fraud Control directors from several states have concluded a detailed investigation of a list of about 50 injectable and outpatient chemo therapy and home infusion drugs (430 NDCs) used primarily by doctors offices and by pharmacies that specialize in home infusion. The investigation verified that the average wholesale prices (AWP) information being provided to First DataBank by the manufacturers of these products was significantly inflated. That investigation lead to an agreement with the manufacturers of these drugs and with First DataBank that "real" average wholesale prices would be provided to state Medicaid programs beginning May 1, 2000, and that ongoing updates of these prices would also be "real" and verifiable by this group. We have concluded our analysis of these prices and have confirmed they are true average wholesale prices.

Current policy and Administrative Rule language provides that wholesale prices are reduced by 10% for brand name drugs and 12% for generics (in an attempt to address the fact that AWP's were known to be inflated). Because the prices now being received for these 430 NDCs is a true average wholesale price, the discounting technique causes the physician or pharmacy to be reimbursed at less than their actual acquisition cost.

RECOMMENDATION: We recommend that the Department immediately stop applying the referenced discount when pricing any of the drugs for which real wholesale pricing information is available and for any other drugs similarly reported in the future.

We also recommend that we pursue changes to the appropriate Administrative Rules. General Counsel staff are currently assisting with an assessment regarding the applicability of the Emergency Rules provisions. (We believe continuing to reimburse at less than cost will impact patient access to necessary medical care.)

BACKGROUND: The Justice Department has conducted and continues to conduct an investigation on drug pricing. The issue revolves around the drug manufacturers' average wholesale prices. States take the AWP supplied by First DataBank and apply a discount when reimbursing providers. The discounts are state specific and usually are arrived at via the budget process and/or negotiation with the provider community. Our discount is 10% - 12%, depending on generic or brand name drugs.

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Staff have surveyed other states to see what they are doing about the problem. States either already had a mechanism in place to allow them to not apply a discount for individual drugs or are developing alternative reimbursement systems for these drugs. Several states in the latter situation are reporting access problems where providers are refusing to dispense the medications and thus are attempting to expedite this change. We expect access complaints as well. You should also be aware that the Justice Department and the State Medicaid Fraud Control Directors are asking for additional information on another 1,000 or so NDCs. As the number of NDCs where "true" average wholesale prices are being reported grows, these access problems are going to worsen.

Division of Medical Programs staff have developed a mechanism to pay these drugs systematically without applying the discount. It will take BIS a few days of work and Department Administrative Rules will require changes, but it can be done in a relatively short period of time. We are recommending proceeding with the changes to pricing immediately.

OTHER INFORMATION: You should also be aware of a couple of other concerns that are expected to eventually surface regarding the drugs for which average wholesale prices have become "real." The first is that providers will complain that they need separate reimbursement for certain services for which they are not currently receiving reimbursement. Examples will include physicians/hospitals seeking reimbursement for hours of time patients are in their oncology/hematology centers receiving infusion, nurse time for medication administration and monitoring and pharmacists/physicians seeking separate reimbursement for the equipment and time required to compound these infusion or injectable solutions. We also expect arguments that dispensing fees should be increased to compensate for some of the revenue lost because of reductions in AWP.

Please let me know if you need additional information or would like to discuss this issue.

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